



California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

ADOPTION

MULTI-COUNTY: Antelope Valley Learning Academy, Inc.

AMENDMENT

STATE: Department of Developmental Services

A written comment period has been established commencing on **April 23, 2010**, and closing on **June 7, 2010**. Written comments should be directed to the Fair Political Practices Commission, Attention **Cynthia Fisher**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested per-

son, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **June 7, 2010**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code(s) and approve it as revised, or return the proposed code(s) for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Cynthia Fisher, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the re-

spective agency. Requests for copies from the Commission should be made to **Cynthia Fisher**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 5. BUREAU FOR PRIVATE POSTSECONDARY EDUCATION

DEPARTMENT OF CONSUMER AFFAIRS

NOTICE IS HEREBY GIVEN that the Bureau for Private Postsecondary Education (hereinafter “Bureau”), Department of Consumer Affairs, is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Department of Consumer Affairs, 2005 Evergreen Street, Sacramento, California, 95815, at 10 a.m., or as soon as practicable thereafter, on June 7, 2010. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Bureau at its office not later than 5:00 p.m. on June 7, 2010, or must be received by the Bureau at the hearing. The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 94803, 94874.7, 94877, 94885, 94888, 94890, 94891, 94895, 94923, 94932, and 94934 of the Education Code, and to implement, interpret or make specific Sections 94801, 94802, 94809, 94818, 94821, 94822, 94823, 94823.5, 94830, 94834, 94837, 94843, 94844, 94851, 94870, 94874.1, 94874.7, 94875, 94877, 94882, 94885, 94886, 94887, 94888, 94889, 94890, 94891, 94893, 94894, 94895, 94896, 94897, 94898, 94899, 94900, 94900.5, 94902, 94904, 94905, 94908, 94909, 94911, 94919, 94920, 94923, 94926, 94927, 94927.5, 94930.5, 94931, 94931.5, 94932, 94933, 94937, and 94943.5 of said Code; and Sections 118 and 480 of the Business and Professions Code, the Bureau is considering changes to Division 7.5 of Title 5 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

AB 48, Chapter 310, Statutes of 2009, authorized the newly reconstituted Bureau for Private Postsecondary Education (“Bureau” or “BPPE”), within the Department of Consumer Affairs, to adopt emergency regulations to amend the regulations, as they read on June 30, 2007, so they conform to the California Private Postsecondary Education Act of 2009 (Act). The Bureau is proposing the following changes:

Chapter 1, Article 1: amend the existing regulations to define terms used in the Act

Chapter 1, Article 2: define the process to be used for the period during which Bureau is able to review applications that have been pending since the former Bureau sunset.

Chapter 2, Article 1: define the process by which a non-accredited institution can apply for approval to operate from the Bureau.

Chapter 2, Article 2: define the process by which an accredited institution can apply for approval to operate from the Bureau.

Chapter 2, Article 3: define the process by which an institution exempt from regulation can apply for verification of exempt status from the Bureau.

Chapter 2, Article 4: define the process by which the Bureau processes and denies an application, including provisions for abandonment of an application.

Chapter 2, Article 5: define the process for convening a visiting committee to assist the Bureau in reviewing applications.

Chapter 2, Article 6: define the process by which an institution can apply for renewal of its approval to operate from the Bureau.

Chapter 2, Article 7: define the process by which an institution can apply for a substantive change to its approval to operate from the Bureau.

Chapter 3, Article 1: define the minimum operating standards for an institution applying for approval to operate, which must be established in its application.

Chapter 3, Article 2: define the minimum academic achievement and admissions standards for an institution applying for approval to operate, which must be established in its application.

Chapter 3, Article 3: define the minimum standards for maintaining student and institutional records for an institution applying for approval to operate, which must be established in its application.

Chapter 4, Article 1: establish the required fees and payment schedules.

Chapter 4, Article 2: establish the standards for the statutory reporting requirements.

Chapter 4, Article 3: establish the standards for general provisions for compliance with the Act, including criteria for what is a substantially related conviction, rehabilitation criteria, advertising requirements, and provisions for stipulations.

Chapter 5, Article 1: establish the general provisions for the Student Tuition Recovery Fund (STRF).

Chapter 5, Article 2: establish the provisions for the calculating the amount of the required STRF assessments.

Chapter 5, Article 3: outline the process for seeking recovery from STRF.

Chapter 5, Article 4: outline the general process for continued instruction upon closure of an institution.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None

Business Impact:

The Bureau has made an initial determination that the proposed regulatory action may have significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Bureau has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

Business Reporting Requirement

The Bureau finds that it is necessary for the health, safety, or welfare of the people of this state that the pro-

posed regulations which require a report apply to businesses.

Impact on Jobs/New Businesses:

The Bureau has determined that this regulatory proposal may have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The total statewide costs that businesses and individuals may incur to comply with this regulation over its lifetime is as follows:

- The following fee schedule has been proposed, and may be changed by regulation:
 - \$5,000 for a main campus application for initial approval to operate
 - \$3,000 for a new branch application for an initial approval to operate
 - \$750 for an application for an initial approval by means of accreditation
 - \$3,500 for a main campus renewal application
 - \$3,000 for a branch renewal application
 - \$500 for a renewal by means of accreditation
 - \$500 for an application for a substantive change to an approval
 - \$250 for a substantive change to an approval by means of accreditation
- Establish an annual institutional fee, equal to 0.75% of an institution's total annual revenue derived from students in California, but no more than a total of \$25,000 annually; establish an annual branch fee of \$1,000 for each branch or campus operating in this state.
- Individual costs will vary greatly depending on the profession being pursued, e.g., law vs. cosmetology vs. veterinary technician vs. computer software specialist vs. sales clerks, etc. The costs can obviously run the gamut given the ultimate professional objective.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Bureau must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would

either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau for Private Postsecondary Education, 1625 N. Market Blvd., Suite S 202, Sacramento, California 95834.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below **[or by accessing the website listed below]**.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Joanne Wenzel
Staff Services Manager III
Address: 1625 N. Market Blvd.,
Suite S 202
Sacramento, California 95834
Telephone No.: (916) 574-7784
Fax No.: (916) 574-8652
E-Mail Address: Joanne_Wenzel@dca.ca.gov

The backup contact person is:

Name: Dianne McKernon
Address: 1625 N. Market Blvd.,
Suite S 202
Sacramento, California 95834
Telephone No.: (916) 574-7792
Fax No.: (916) 574-8652
E-Mail Address: Dianne_McKernon@dca.ca.gov

Website Access <http://bppe.ca.gov>; Materials regarding this proposal can be found at <http://bppe.ca.gov/>.

TITLE 10. OFFICE OF REAL ESTATE APPRAISERS

NOTICE IS HEREBY GIVEN that the Director of the Office of Real Estate Appraisers (OREA) proposes to amend regulations relative to the practice of real estate appraisal for purposes of clarity and to implement specific requirements for licensure adopted by the Appraiser Qualifications Board of the Appraisal Foundation. The Director proposes to amend California Code of Regulations, Title 10, Chapter 6.5 of Sections 3525, 3527, 3541, 3542, 3543, 3544, 3561, 3563, 3566, 3568, 3569, 3570, 3583, 3602, 3603, 3661, 3722, and Article 15 (Conflict of Interest Code).

A public hearing for the collection of comments about this proposal has not been scheduled. However, any interested person or his or her duly authorized representative may present statements, arguments or conclusions in writing. In addition, a public hearing will be held if, no later than 15 days prior to the close of the written comment period, an interested person or his or her duly authorized representative submits in writing to OREA a request that a hearing be held.

Any written comments on the proposed regulations must be received no later than 5:00 p.m. on June 7, 2010, which is hereby designated as the close of the written comment period. Please submit written comments to:

Office of Real Estate Appraisers
1102 Q Street, Suite 4100
Sacramento, CA 95811

CONTACT

Inquiries concerning the action described in this Notice may be directed to Bob Clark, Director, at (916) 440-7878 or to Greg Harding, Chief of Licensing and Enforcement, at (916) 440-7874.

AUTHORITY AND REFERENCE

Pursuant to the authority vested in the Director of the Office of Real Estate Appraisers by Business and Professions Code, Sections 11302, 11310, 11313, 11314,

11325, 11327, 11328, 11340, 11360, 11361 and 11400 and to implement, interpret or make specific Public Law 101-73, Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Director of OREA is proposing amendments to California Code of Regulations, Title 10, Chapter 6.5.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The U.S Congress enacted Title XI of FIRREA in 1989, mandating all states to license real estate appraisers who appraise real property for federally related real estate transactions as defined. In response to the federal mandate, the California Legislature passed the Real Estate Appraisers' Licensing and Certification Law [Stats. 1990, c.491, (AB 527), amended by Stats. 1990, c. 1062 (SB 910), Stats. 1991, c. 84 (SB 1028), Stats. 1993, c. 331 (SB 914), Stats. 1993, c. 343 (SB 173), Stats. 1993, c.940 (AB 1723), Stats. 1993, c. 941 (AB 387), Stats. 1994, c. 837 (AB 2634), Stats. c. 439 (SB 1316), Stats. 1997, c. 790 (SB 1348), Stats. 1998, c. 366 (AB 2244), Stats. 1999, c. 974 (AB 431), Stats. 2007, c. 291 (SB 223), and Stats. 2009, c. 173 (SB 237)]. The law charged OREA with licensing real estate appraisers in California and enforcing ethical and professional standards and qualifications. Regulations previously adopted by OREA to carry out these federal and state statutory requirements are being amended as follows:

1. Section 3525. Temporary Practice Permit

The Appraisal Subcommittee (ASC), OREA's federal oversight agency, has recommended clarification in the regulations regarding the term of issuance of Temporary Practice Permits, specifically what happens if a Temporary Practice Permit holder's issuing state appraisal license expires less than one year from OREA's issuance of a Temporary Practice Permit. The Director of OREA proposes clarification to the Information field of form REA 3009 (Rev. 5/8/00) Request for Temporary Practice Permit, and to this Section of the regulations to comply with said recommendation.

2. Section 3527. Personal Information or Contact Change

The Director of OREA proposes additional language to Section 3527(b) that clarifies physical address requirements.

3. Section 3541. Minimum Experience Requirements Subsection (d)

Current regulations provide that licensed real estate brokers who apply for the residential licensed real estate appraiser license must have at least 1,000 of the minimum 2,000 hours of real estate appraisal experi-

ence. The Director of OREA proposes adding a statement clarifying that licensees who do not have the minimum 2,000 hours of experience required for the residential real estate appraiser license are not in compliance with the minimum requirements established by the Appraiser Qualifications Board (AQB) and will be listed on the National Registry maintained by the ASC as not being in compliance with minimum AQB licensing criteria until they have provided verification of having met the minimum qualifications.

4. Section 3542. Acceptable Categories of Experience and Criteria for Each Category Subsection (a)(2)

Section 3542 clarifies the experience requirements for appraisals performed for estimating value for property tax purposes. Current regulations specify that, among other requirements, appraisers who appraise property for tax purposes must demonstrate their use of techniques similar to those used for appraisals for other purposes. The Director of OREA proposes amending Section 3542 to require that appraisers who appraise property for tax purposes use appraisal methods, such as sales comparison, income or cost approaches, appropriate to the property type being appraised, and to perform all appraisals in conformance with the Uniform Standards of Professional Practice (USPAP).

5. Section 3543. Minimum Basic and Continuing Education Requirements Subsections (a)(2), (a)(4), (b)(2)

Current regulations provide that basic and advanced appraisal courses given by real estate schools that have been approved by the California Department of Real Estate as part of the requirement for a broker license are exempt from accreditation requirements specified in Section 3543. The Director of OREA proposes amending the section to delete the provision that specifies that basic and advanced appraisal courses that have been approved by the California Department of Real Estate are acceptable to meet the basic and continuing education requirements. The amended section would require all basic and advanced appraisal courses given by real estate schools that have been approved by the California Department of Real Estate to meet the minimum course approval requirements as established by the AQB.

6. Section 3544. Credit for Teaching Appraisal Courses

Current regulations provide that instructors of appraisal courses may receive credit for up to one-half of their basic or continuing education requirements for licensing, but not both. Effective January 1, 2008, the AQB no longer allows such credit for basic education qualification, so the Director of OREA proposes amending this section to delete the provision that allows the basic education credit.

7. Section 3561. Application for Licensing Subsection (c)

Current regulations specify that applicants for licensing must submit, in addition to other forms, a completed form REA 3002 (Rev. 5/8/00) Basic Education Attachment. Form REA 3002 (Rev. 5/8/00) lists on page 1 in an area of the form identified as “For OREA Use Only” specific course topics that meet the basic education requirements. The Director proposes modifying form REA 3002 (Rev. 5/8/00) to eliminate the listing of basic education topics to comply with current AQB requirements for basic education that specify education needed to qualify for licensure must meet specific course content rather than specific topics, and to amend the revision date for form REA 3002 (Rev. 5/8/00).

The Director also proposes amending current regulations to specify revision dates for forms REA 3001 (Rev. 5/8/00) Initial Application, REA 3003 (Rev. 5/8/00) Experience Log Summary and REA 3004 (Rev. 5/8/00) Log of Appraisal Experience.

8. Section 3563. Evidence of Experience Qualifications Subsections (b)(2), (b)(3), (b)(4)

Current regulations specify the acceptable forms of documentation needed to verify the required experience for licensure. In addition to submission of a log of appraisal experience, applicants with ad valorem appraisal experience pursuant to Section 3542(a)(2) may submit a certification from the applicant’s employer under penalty of perjury that the applicant’s experience was in real property appraisal. Current regulations also specify that substantiation of experience setting forth opinions of value of real property for tax purposes as an employee of a California county assessor’s office or the California Board of Equalization under Section 3542(a)(9) must include a certification from the applicant’s supervisor, under penalty of perjury, that the applicant’s experience was in real property appraisals and must include a complete description of the applicant’s role in preparation of appraisals, including the time worked and the types of properties appraised. The Director of OREA proposes eliminating the provisions allowing applicants to submit certifications from employers or supervisors and requiring them instead to document work experience through submission of form REA 3004 (Rev. 5/8/00) Log of Appraisal Experience, form REA 3003 (Rev. 5/8/00) Experience Log Summary, and samples of completed appraisals as selected by OREA.

The Director proposes amending current regulations to modify form REA 3003 (Rev. 5/8/00) Experience Log Summary and form REA 3004 (Rev. 5/8/00) Log of Appraisal Experience to clarify existing experience requirements and ensure consistency with regulations.

The Director of OREA also proposes to amend Section 3563 to specify that the Office will select samples of completed appraisals for review from logs of appraisal experience submitted with applications for licensure.

9. Section 3566. Challenge Courses

Current regulations provide that challenge courses are acceptable to meet basic education requirements for licensing if they were completed prior to July 1, 1990. The AQB no longer allows such credit for basic education qualification, so the Director of OREA proposes amending this section to clearly state that challenge courses are not acceptable to satisfy basic education licensing requirements.

10. Section 3568. Provisional Licenses; Trainee Licenses and Supervising Appraiser Responsibilities Subsection (b)(2)

Current regulations specify that to accrue acceptable experience, trainee licensees must work under the direct supervision of supervisors who are licensed and in good standing. The Director of OREA proposes to amend Section 3568 to clarify that trainee licensees must work under supervisors who are licensed at the certified level to accrue acceptable work experience. OREA ceased issuing provisional licenses after December 31, 1993, so the Director of OREA proposes deleting the reference to this classification.

The Director proposes amending Section 3568 to reflect proposed date of revision of form REA 3004 (Rev. 5/8/00) Log of Appraisal Experience.

11. Section 3569. Reciprocity

Existing regulations reference form REA 3002 (Rev. 5/8/00) Basic Education Summary, form REA 3003 (Rev. 5/8/00) Experience Log Summary, and form REA 3004 (Rev. 5/8/00) Log of Appraisal Experience as revised on 5/8/00. The Director of OREA proposes amending Section 3569 to reflect the proposed date of revision consistent with these regulations.

12. Section 3570. Time Limits for Processing Applications

Existing regulations reference forms REA 3001 (Rev. 5/8/00) Initial Application, REA 3002 (Rev. 5/8/00) Basic Education Summary, REA 3003 (Rev. 5/8/00) Experience Log Summary, REA 3004 (Rev. 5/8/00) Log of Appraisal Experience, and REA 3009 (Rev. 5/8/00) Request for Temporary Practice Permit as revised on 5/8/00. The Director of OREA proposes amending Section 3570 to reflect the proposed date of revision consistent with these regulations. Existing regulations also improperly reference said forms as “REA Form 3001”, “REA Form 3002”, etc. The Director of OREA proposes several amendments to this Section to

correctly reference said forms as “form REA 3001”, “form REA 3002”, etc.

13. Section 3583. Temporary Reduction in Issuance Fees

Existing regulations specify the amount of issuance fees required for licensure. The fees are the result of a temporary reduction in issuance fees that became operable on September 7, 2006, under the authority vested in the Director of OREA in Business and Professions Code, Division 4, Part 3, Section 11407. The preamble to current regulation in Section 3583 specifies that the reduction in issuance fees shall be operable through June 30, 2010 and will thereupon expire. The Director of OREA proposes that the expiration date for Section 3583 be extended to June 30, 2014.

14. Section 3602. Change in the Status of License

Existing regulations reference forms REA 3001 (Rev. 5/8/00) Initial Application, REA 3002 (Rev. 5/8/00) Basic Education Summary, REA 3003 (Rev. 5/8/00) Experience Log Summary, REA 3004 (Rev. 5/8/00) Log of Appraisal Experience as revised on 5/8/00. The Director of OREA proposes amending Section 3602 to reflect the proposed date of revision consistent with these regulations.

15. Section 3603. Converting a Trainee License to a Full License or Higher Classification

Existing regulations reference forms REA 3001 (Rev. 5/8/00) Initial Application, REA 3002 (Rev. 5/8/00) Basic Education Summary, REA 3003 (Rev. 5/8/00) Experience Log Summary and REA 3004 (Rev. 5/8/00) Log of Appraisal Experience as revised on 5/8/00. The Director of OREA proposes amending Section 3603 to reflect the proposed date of revision consistent with these regulations. Existing regulations also improperly reference forms as “REA Forms 3023 and 3001,” etc. The Director of OREA proposes several amendments to this Section to correctly reference said forms as “form REA 3023”, “form REA 3001”, etc.

16. Section 3661. General Requirements for Basic and Continuing Education Accreditation

The ASC has recommended clarification in the regulations regarding the amount of time OREA requires a participant to be present during an educational course offering, as the ASC requirement is less stringent than OREA’s. The Director of OREA proposes additional language in Section 3661(a)(3) to clearly delineate the time requirement.

17. Section 3722. Criteria of Substantial Relationship

Existing regulations authorize the Director of OREA to take actions to discipline licensees or withhold licenses from persons who have been convicted of a felony or any crime that is substantially related to the qualifications, functions, or duties of the profession of

real estate appraisal. Existing regulations establish criteria for OREA use in making determinations of substantial relationship of crimes or acts to the qualifications, functions, or duties or the profession of real estate appraisal when examining fitness for licensure. The Director of OREA proposes amending Section 3722 to clarify that specified crimes or acts are related to the qualifications, functions or duties of the real estate appraisal profession.

18. Article 15. Office of Real Estate Appraisers — Conflict of Interest Code

OREA’s office location has changed since the last revision of the regulations; therefore, the Director of OREA proposes a change indicating the correct address.

FISCAL IMPACT

- Cost or Savings to Any State Agency: None
- Direct or indirect costs or savings in federal funding to the state: None
- Other nondiscretionary cost or savings imposed on local agencies: None
- Costs to any local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code: None

DETERMINATIONS

The Office of Real Estate Appraisers has made an initial determination that the adoption/amendment/repeal of this regulation:

- Does not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with business in other states.
- Does not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not have an effect on housing costs.
- Does not significantly affect: (1) the creation or elimination of jobs within the State of California; (2) the creation of new businesses, the expansion of business or the elimination of existing businesses currently doing business within the State of California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Office of Real Estate Appraisers is not aware of any cost impacts that a representative private person or

business would necessarily incur in reasonable compliance with the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Office of Real Estate Appraisers has prepared and has available for public review an Initial Statement of Reasons for the proposed changes in these regulations, the information upon which the proposed changes are based and the text of the proposed regulations, as changed. A copy of the Initial Statement of Reasons and a copy of the proposed regulation text are available upon request by writing to OREA at the address noted above, which will also be the location of public records, including reports, documentation and other materials related to the proposed regulations. The information may also be accessed on OREA's website at www.orea.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person(s) named in this notice or may be accessed on OREA's website at www.orea.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation, which is changed or modified from the express terms of the proposed action, will be made available by OREA at least 15 days prior to the date on which OREA adopts, amends or repeals the resulting regulations.

EFFECT ON SMALL BUSINESS

The Office of Real Estate Appraisers has determined that the adoption of these regulations will have a positive effect on small businesses by extending the reduction in license issuance fees for an additional four years.

CONSIDERATION OF ALTERNATIVES

The Office of Real Estate Appraisers has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of OREA would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 16. BOARD OF BARBERING AND COSMETOLOGY

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Board of Barbering and Cosmetology (hereinafter referred to as "The Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the following date, time and location:

June 7, 2010

10:00 a.m.

Board of Barbering and Cosmetology
Sequoia Room
2420 Del Paso Road
Sacramento, California 95834

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under the contact person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on June 7, 2010 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference

Pursuant to the authority vested by Sections 7312 and 7406 of the Business and Professions Code, and to implement, interpret or make specific Sections 7407 and 7409 of said Code, the Board is considering changes to Division 9 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 974 of the California Code of Regulations

Business and Professions Code, Section 7406 authorizes the Board to assess administrative fines for the violation of any rules and regulations adopted by the

Board under this chapter. Business and Professions Code 7407 requires that the Board indicate that for each type of violation whether, in the board's discretion, the violation can be corrected.

The proposed regulations would set a fine amount for each violation of a code section that increases according to the number of prior violations. The proposed regulations would also specify whether the violation can be corrected and the fine waived. The schedule is designed to promote compliance with the Board's regulations for the health and safety of the public.

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State

It is difficult to accurately project the fiscal impact of the proposed administrative fine schedule changes, but the Board believes that impact, if any, will be minimal. Although at first glance it might appear that the lower fines for first and second offenses would result in a decrease in the Board's fund — where fine money is deposited — the lower fine amounts are largely consistent with fine reductions already made by the Board through its Cite and Fine Unit and the Disciplinary Review Committee (DRC), which hears appeals of licensees who have been cited by Board inspectors. The Board expects the new schedule will lead to greater compliance by licensees and give the Board more time to address the most egregious violations. Greater compliance should also reduce the cost associated with hearing appeals by licensees facing the current, larger fines.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None

Business Impact

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California

Cost Impact on Representative Private Person or Business

The cost impact that a representative private person or business would incur because of the proposed action

depends upon their compliance with the Board's health and safety laws. The impact would be minimal to the licensee or establishment that has very few violations. On the other hand, the impact would be more significant to those who are not compliant with the Board's health and safety rules.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

This proposal may have an effect on small business establishments licensed by the Board who fail to comply with the Board's regulations.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

INITIAL STATEMENT OF REASONS
AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board of Barbering and Cosmetology at 2420 Del Paso Rd., Suite 100, Sacramento, CA 95834.

AVAILABILITY AND LOCATION
OF THE FINAL STATEMENT OF REASONS
AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Contact Person:

Name: Kevin Flanagan
Address: 2420 Del Paso Rd., Suite 100
Sacramento, CA 95834
Telephone: (916) 575-7104
Fax: (916) 575-7281
Email
Address: Kevin_Flanagan@dca.ca.gov

Backup Contact Person:

Name: Stacy Meza
Address: 2420 Del Paso Rd., Suite 100
Sacramento, CA 95834
Telephone: (916) 575-7100
Fax: (916) 575-7281
Email
Address: stacy_meza@dca.ca.gov

Web Site Access

Materials regarding this proposal can be found at www.barbercosmo.ca.gov.

**TITLE 19. CALIFORNIA EMERGENCY
MANAGEMENT AGENCY**

NOTICE OF PROPOSED RULEMAKING

CALIFORNIA CODE OF REGULATIONS
TITLE 19. PUBLIC SAFETY
DIVISION 2. OFFICE OF
EMERGENCY SERVICES
CHAPTER 6 CALIFORNIA DISASTER
ASSISTANCE ACT (CDAA)

Notice is hereby given that the California Emergency Management Agency (Cal EMA) proposes to take the regulatory action described below after considering all public comments, objections and recommendations.

PROPOSED REGULATORY ACTION

Cal EMA proposes to add the following sections to Chapter 6, Division 2, Title 19 of the California Code of Regulations:

Section 3000. Definitions
Section 3010. General Provisions for Eligible Private Nonprofit (PNP) Activities
Section 3020. PNP Applicant Eligibility
Section 3030. PNP Activities Eligibility
Section 3040. PNP Cost Eligibility
Section 3050. PNP Application Process
Section 3060. Fair Hearing Process
Section 3070. Audit

Section 3080. Retention Requirements for Records
Section 3090. Original Source Documentation
Section 3000. Definitions

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

In accordance with Title 2, Division 1, Chapter 7.5, Section 8692(e) of the Government Code (Govt. Code), Cal EMA shall adopt regulations to govern the administration of the newly enacted Article 6, Nonprofit Organizations.

The California Disaster Assistance Act (Act) was recently amended by Assembly Bill 903 — Chapter 400; approved by the Governor on October 10, 2007 [Title 2, Division 1, Chapter 7.5, of the Govt. Code] to require the Secretary of the Cal EMA to administer a program that provides state financial assistance as reimbursement to private nonprofit organizations (PNPs) for the distribution of supplies and other emergency or disaster assistance activities resulting in extraordinary costs. Prior to this amendment, the program provided state financial assistance to local agencies. For the purposes of the program, a PNP is defined as any private not for profit organization that is compliant with Title 44 of the Code of Federal Regulations (44 CFR) Section 206.221(7)(f). The program may be implemented only in the event of a Governor's State of Emergency Proclamation.

Effect on Small Business: Cal EMA has determined that the proposed regulations will not affect small business. These proposed regulations are necessary to implement PNP eligibility for state financial assistance as mandated in Section 8692 of the Act.

AUTHORITY AND REFERENCE

This regulation is proposed in accordance with Title 2, Division 1, Chapter 7.5, Section 8692(e) of the Government Code. This Section 8692(e) requires the California Emergency Management Agency to adopt regulations to govern the administration of the newly enacted Article 6, Nonprofit Organizations.

WRITTEN COMMENT PERIOD

Any interested person, or his/her authorized representative, may submit written comments relevant to the proposed regulatory action to Cal EMA. The written comment period closes at 5:00 p.m. on June 7, 2010. Cal EMA will consider only comments received at the Cal EMA office by that time. You may submit written comments as follows:

U.S. Mail: Ms. Nancy Sutton
Recovery Division
California Emergency Management
Agency
3650 Schriever Avenue
Mather, CA 95655

Facsimile: (916) 845-8387

E-mail: Nancy.Sutton@calema.ca.gov

PUBLIC HEARING

Cal EMA will schedule public hearings on this proposed action if requested. To request a public hearing, a written request shall be submitted to Ms. Nancy Sutton at the address above, no later than 15 days prior to the close of the written comment period.

DISCLOSURES REGARDING THE PROPOSED ACTION

Cal EMA has made the following determinations:

- Mandate on local agencies and school districts: *none*
- Cost or savings to any state agency: *none*
- Cost to any local agency or school district which must be reimbursed commencing with Government Code section 17500: *none*
- Other nondiscretionary cost or savings imposed on local agencies: *none*
- Cost or savings in federal funding to the state: *none*
- Effect on business: Cal EMA has made an initial determination that the adoption of these regulations will not have a significant statewide adverse economic impact directly affecting California businesses including the ability of California businesses to compete with businesses in other states.
- Cost impacts on representative private persons or businesses: The Cal EMA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Adoption of these regulations will not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.
- Significant effect on housing costs: *none*
- The proposed Rules do not conflict with, or duplicate Federal regulations.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), Cal EMA must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of Cal EMA would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Cal EMA invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the rulemaking process or other technical or non-technical questions may be directed to:

Primary Contact: Nancy Sutton (916) 845-8276
Backup Contact: Patti Rapozo (916) 845-8519

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

Cal EMA will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file shall consist of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting the persons listed in this notice or by accessing our Web site at the following address: <http://www.calema.ca.gov>.

AVAILABILITY OF FINAL STATEMENT OF REASONS

When the Final Statement of reasons is prepared, you may obtain a copy by contacting the agency person listed in this notice or by accessing our Web site listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, Cal EMA may adopt the proposed regulations substantially as described in this notice. If Cal EMA makes modifications to the originally proposed text, it will make the modified text available to interested parties for at least 15 days before the adoption of the regu-

lations as modified. Cal EMA will accept written comments on the modified regulations for 15 days after the date on which the modified text is noticed.

**TITLE 27. OFFICE OF
ENVIRONMENTAL HEALTH HAZARD
ASSESSMENT**

CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT

NOTICE OF PROPOSED RULEMAKING

**TITLE 27, CALIFORNIA CODE
OF REGULATIONS**

**AMENDMENT TO SECTION 25805
SPECIFIC REGULATORY LEVELS:
CHEMICALS CAUSING
REPRODUCTIVE TOXICITY**

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) proposes to establish a specific regulatory level having a maximum allowable dose (MADL) for Di-isodecyl Phthalate (DIDP), and amend Title 27, California Code of Regulations, Section 25805¹.

PUBLIC PROCEEDINGS

Any written statements or arguments regardless of the form or method of transmission must be received by OEHHA by 5:00 p.m. on **June 7, 2010**, the designated close of the written comment period.

Written comments regarding this proposed action can be sent by e-mail, mail or by fax addressed to:

Monet Vela
Office of Environmental Health Hazard Assessment
Proposition 65 Implementation Program
P.O. Box 4010
Sacramento, California 95812-4010
FAX: (916) 323-2610
Telephone: (916) 323-2517
mvela@oehha.ca.gov

Comments sent by courier should be delivered to:

Monet Vela
Office of Environmental Health Hazard Assessment
1001 I Street, 19th Floor
Sacramento, California 95814

It is requested but not required that written statements or arguments be submitted in triplicate.

A public hearing to present oral comments will be scheduled only if one is requested. The request must be submitted in writing no later than 15 days before the close of the comment period on June 7, 2010. The written request must be sent to OEHHA at the address listed below no later than May 24, 2010. A notice for the public hearing, if one is requested, will be mailed to interested parties who are on the Proposition 65 mailing list for regulatory public hearings. The notice will also be posted on the OEHHA web site at least ten days in advance of the public hearing date. The notice will provide the date, time, location and subject matter to be heard.

If a hearing is scheduled and you have special accommodation or language needs, please contact Monet Vela at (916) 323-2517 or mvela@oehha.ca.gov at least one week in advance of the hearing. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

CONTACT

Please direct inquiries concerning the substance and processing of the action described in this notice to Monet Vela, in writing at the address given above, or by telephone at (916) 323-2517. Ms. Fran Kammerer is a back-up contact person for inquiries concerning processing of this action and is available at (916) 445-4693.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code section 25249.5 et seq. and commonly known as Proposition 65 (hereinafter Proposition 65 or the Act), prohibits a person in the course of doing business from knowingly and intentionally exposing any individual to a chemical that has been listed as known to the State to cause cancer or reproductive toxicity, without first giving clear and reasonable warning to such individual (Health and Safety Code section 25249.6). The Act also prohibits a business from knowingly discharging a listed chemical into water or onto or into land where such chemical passes or probably will pass into any source of drinking water (Health and Safety Code section 25249.5).

For chemicals known to the state to cause reproductive toxicity, an exemption from the warning require-

¹ All further regulatory references are to Title 27 of the California Code of Regulations unless otherwise indicated.

ment is provided by the Act when a person in the course of doing business is able to demonstrate that an exposure for which the person is responsible produces no observable reproductive effect, assuming exposure at 1,000 times the level in question (Health and Safety Code sections 25249.9, 25249.10 and 25249.11). The maximum dose level at which a chemical has no observable reproductive effect is referred to as the no observable effect level (NOEL). The Act also provides an exemption from the prohibition against discharging a listed chemical into sources of drinking water if the amount discharged does not constitute a “significant amount,” as defined, and the discharge is in conformity with all other laws and regulatory requirements (Health and Safety Code sections 25249.9 and 25249.11). Thus, these exemptions apply when the exposure or discharge in question is at a level that does not exceed the NOEL divided by 1,000.

Regulations previously adopted by the Office of Environmental Health Hazard Assessment (OEHHA) provide guidance for determining whether an exposure to, or a discharge of, a chemical known to cause reproductive toxicity meets the statutory exemption (Title 27, California Code of Regulations, sections 25801–25821). These regulations provide three ways by which a person in the course of doing business may make such a determination: (1) by conducting a risk assessment in accordance with the principles described in Section 25803 to derive a NOEL, and dividing the NOEL by 1,000; or (2) by application of the specific regulatory level adopted for the chemical in Section 25805; or (3) in the absence of such a level, by using a risk assessment conducted by a state or federal agency, provided that such assessment substantially complies with Section 25803(a). The specific regulatory levels in Section 25805 represent one one-thousandth of the NOEL.

This proposed regulation sets forth a maximum allowable dose level (MADL) for adoption into Section 25805 that was derived using scientific methods outlined in Section 25803.

Details on the basis for the proposed level are provided in the reference cited below, which are included in the rulemaking record. The reference is a risk assessment document prepared by OEHHA describing and summarizing the derivation of the regulatory level listed below.

The proposed regulation would adopt the following regulatory level for one chemical known to cause reproductive toxicity into Section 25805:

Chemical	MADL, in units micrograms per day	Reference
DIDP	2200	OEHHA (2010)

The risk assessment which was used by the Office of Environmental Health Hazard Assessment to determine the stated level is as follows:

Office of Environmental Health Hazard Assessment (OEHHA, 2010). Proposition 65 Proposed Maximum Allowable Dose Level (MADL) for Reproductive Toxicity for DIDP. OEHHA Reproductive and Cancer Hazard Assessment Branch, California Environmental Protection Agency, Sacramento, February 2010.

AUTHORITY

Health and Safety Code Section 25249.12.

REFERENCE

Health and Safety Code Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

OEHHA has determined the proposed regulatory action would not pose a mandate on local agencies or school districts nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

COSTS OR SAVINGS TO STATE AGENCIES

The OEHHA has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.

EFFECT ON FEDERAL FUNDING TO THE STATE

OEHHA has determined that no costs or savings in federal funding to the State will result from the proposed regulatory action.

EFFECT ON HOUSING COSTS

OEHHA has determined that the proposed regulatory action will have no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

OEHHA has made an initial determination that the adoption of the regulation will not have a significant

statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

IMPACT ON THE CREATION, ELIMINATION, OR EXPANSION OF JOBS/BUSINESSES

OEHHA has determined that the proposed regulatory action will not have any impact on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The OEHHA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESSES

OEHHA has determined that the proposed regulation will not impose any requirements on small business. Rather, the proposed regulation will assist small businesses subject to the Act in determining whether or not an exposure for which they are responsible is subject to the warning requirement or discharge prohibition.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), OEHHA must determine that no reasonable alternative considered by OEHHA or that has otherwise been identified and brought to the attention of OEHHA would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the regulation, all the critical information upon which the regulation is based, and the text of the regulation. A copy of the Initial Statement of Reasons, a copy of the text of the regulation and a copy of the risk assessment which was used by OEHHA to determine the MADL are available upon request from OEHHA's Proposition 65 Implementation

Program at the address and telephone number indicated above. These documents are also posted on OEHHA's Web site at www.oehha.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on changed regulations and the full text will be mailed to individuals who testified or submitted written comments at the public hearing, whose comments were received by OEHHA during the public comment period, and who request notification from OEHHA of availability of such changes. Copies of the notice and the changed regulation will also be available at the OEHHA's Web site at www.oehha.ca.gov.

FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons may be obtained, when it becomes available, from OEHHA's Proposition 65 Implementation Program at the address and telephone number indicated above. The Final Statement of Reasons will also be available at the OEHHA's Web site at www.oehha.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

CALIFORNIA DEPARTMENT OF FISH AND GAME INCONSISTENCY DETERMINATION Fish and Game Code Section 2080.1 Tracking Number 2080-2010-04-3

Project: United Technologies Corporation San Jose Site Closure

Location: Santa Clara

Applicant: United Technologies Corporation — Pratt and Whitney Rocketdyne

Background

United Technologies Corporation — Pratt and Whitney Rocketdyne (UTC-PWR) proposes to complete closure and site remediation activities on a 5,200 acre site located immediately southeast of the city of San Jose in the Diablo Range foothills in Santa Clara County. The property was used to design, manufacture

and test solid fuel rocket motors for the Department of Defense and aerospace industry, commencing in 1959 until final closure in 2004. Total site disturbance is relatively limited, due to the need to keep the various development areas well separated in the event of a catastrophic accident. As a result, the site provides high habitat value for a wide range of plant and animal species and the habitats that sustain them.

The current project is comprised of three elements: (1) removing most of the anthropogenic features from the site; (2) providing for cleanup of toxic materials from structures, soil and groundwater; and (3) establishing and implementing a long term management plan to assure the successful completion of the cleanup tasks. This latter task is currently proposed to last at least 30 years. Most of these activities have taken or are expected to take place within a 1,900 acre section of the larger property.

The removal phase consists of the demolition and removal of approximately 241 work stations, most of which contain numerous buildings, associated pavement, roads and utilities; removal of connecting roads and work areas; and removal of site infrastructure (mostly utilities). A minimal amount of facilities and primarily roads, will remain in place to allow the long term monitoring and remediation operations. The remediation program not covered by removal of structures, roads and utilities is primarily focused on soil and water contamination and involves long term monitoring. Remediation includes surface water monitoring, groundwater monitoring, well abandonment, soil excavation and sampling, in-situ soil remediation and monitoring.

The activities described above may result in incidental take of California tiger salamander (*Ambystoma californiense*) (CTS) where activities take place in occupied upland habitat for the species. These activities include grading and road/utility removal in grasslands within dispersal distance (up to 1.3 miles) of breeding ponds, grading in grassland and scrub areas, vehicle movement, limited excavation activities during groundwater monitoring, and capture/rescue during scientific study and monitoring on restored areas of the site. CTS is listed as a threatened species under the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and a candidate species under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.).

CTS occupy at least 10 ponds on the 5,200 acre site and are assumed to be present in all grassland and possibly scrub areas within 1.3 miles of those ponds. Because of the dispersed locations of the 10 ponds, it is assumed that CTS might be encountered anywhere in the 1,900 acre work area. Completion of the Project is expected to result in temporary impacts to 37.79 acres of CTS

upland habitat and the possible loss of an unknown number of CTS individuals.

Because the Project has the potential to take a species listed under the ESA, the U.S. Army Corps of Engineers (hereafter, COE) consulted with the U.S. Fish and Wildlife Service (Service) as required by ESA. On October 2, 2007, the Service issued a biological opinion (Service file No.1-1-07-F-0350) (BO) to the COE. The BO describes the Project actions, requires UTC-PWR to comply with terms of the BO and its incidental take statement, and incorporates additional measures.

Subsequent amendments to the BO were issued by the Service on August 19, 2008 (1-1-07-F-350-2) and September 24, 2009 (1-1-07-F-350-3). These amendments were issued to provide details on the year's specific activities and to clarify or correct the assumptions regarding the potential impacts contained in the original BO. The figures and analysis contained in this determination are based on the BO as amended.

The mitigation measures in the BO and subsequent Amendments and incidental take statement (ITS) include, but are not limited to, the following:

Avoidance:

- Mandatory biological training for all field workers by a Service approved biologist.
- Pre-activity surveys to be conducted within a 14 day period prior to work beginning at any specific site.
- Daily pre-activity surveys at each work site.
- Flagging of sensitive areas with no-entry provisions.
- Service-approved biological monitor(s) present during building demolition, habitat disturbance or any activity that disturbs the ground, unless the area is surrounded by exclusion fencing and the daily preconstruction survey has had negative results.
- Monitors have stop-work authority if activities are likely to harm CTS.
- Work will not commence until (at least) 0.5 hours after sunrise and end at least 0.5 hours before sunset during the rainy season (not defined in BO, but assumed to be Oct 15 through April 15 locally) and June through August.
- Vehicle speeds limited to 15 miles per hour during rain events and the 48 hours following rain events, and June through August.
- Stored materials to be inspected by monitor(s) before use.
- Vegetation clearing to be done with hand tools with several exceptions unlikely to raise the risk of take.

- New vehicular access areas to be surveyed by biological monitor(s) prior to construction.
- Areas with exclusionary fencing will be inspected regularly to rescue trapped/blocked CTS.
- Flagging will be used to identify and provide exclusion areas around sensitive features, such as burrows.
- Disturbed areas will be revegetated (where appropriate).

Mitigation:

- Permanently protect three existing breeding sites and 15 acres of upland habitat around each.
- Implement a three year bullfrog reduction/elimination program at two ponds.
- Carry out a population study at one of the ponds.

Project-related activities began in 2007, prior to the listing of CTS under CESA. Since then, approximately two thirds of the removal and remediation activities have been completed. On February 5, 2009, the Fish and Game Commission (Commission) accepted a petition to list CTS under CESA, resulting in the designation of CTS as a candidate species. On that date, the Commission also adopted California Code of Regulations title 14, section 749.4 (Section 749.4) which allowed, for a one-year period, take of CTS under certain conditions while it is a candidate species without obtaining formal CESA take authorization from the Department of Fish and Game (Department). Many of UTC-PWR's Project activities were covered under Section 749.4: therefore, when Section 749.4 expired on February 22, 2010, UTC-PWR could no longer carry out those Project activities without obtaining CESA take authorization. On March 3, 2010, the Fish and Game Commission voted to designate CTS as a threatened species, pending completion of formal rule-making.

Because of the listing of CTS as a candidate species under CESA and its impending listing as a threatened species and because various Project activities are no longer exempted from CESA take-authorization requirements because Section 749.4 has expired, UTC-PWR is required to obtain authorization under CESA to incidentally take CTS while carrying out the remaining Project activities. Assuming that up to one third of the Project activities remain, incidental take authorization would cover the remaining removal activities, the remaining infrastructure installation for long term monitoring and remediation activities, rescue of individual CTS encountered during the course of other activities, and for capture and marking of individuals associated

with a population study required by the BO. Not counting the take associated with rescues and the population study, a total of 2 CTS have been harmed or killed since 2007. Therefore, total impacts from the remaining Project activities can be projected to be the temporary loss of 12.6 acres of upland habitat and the loss of no more than 2 individuals.

On March 10, 2010, UTC-PWR notified the Director of the Department that it was requesting a determination, pursuant to Fish and Game Code section 2080.1, that the BO and its related ITS is consistent with CESA for purposes of the Project.

DETERMINATION

After review and consideration of the BO, including its ITS, the Department has determined that the BO and ITS are not consistent with CESA because the required measures do not meet the conditions set forth in Fish and Game Code section 2081, subdivision (b), for authorizing incidental take of CESA-listed species. This determination is based on the following considerations:

- The BO does not require protection of the mitigation areas in perpetuity in a form or timeframe that ensures full mitigation for the impacts of the taking,
- The BO does not ensure the mitigation areas remain functional for CTS by providing, for example, a management plan for the property, and
- The BO does not require a secure source of funding to manage the property in perpetuity.

For these reasons, the BO does not meet the requirements of Fish and Game Code section 2081, subdivisions (b)(2) and (b)(4) to minimize and fully mitigate impacts and ensure adequate funding to carry out all required mitigation. Therefore, the Department has determined that the BO, including its ITS, is not consistent with CESA as it pertains to incidental take of CTS by UTC-PWR during implementation of the Project because it does not ensure that impacts to CTS will be minimized and fully mitigated. Pursuant to Fish and Game Code section 2080.1, subdivision (c), with this determination the incidental take of CTS resulting from implementation of the Project may only be authorized by the Department through the issuance of an incidental take permit pursuant to Fish and Game Code section 2081, subdivision (b).

By: _____/s/_____ Date: 4/8/10
Sandra Morey, Acting Deputy Director
California Department of Fish and Game

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY**

**OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT**

NOTICE TO INTERESTED PARTIES

NOTICE OF PUBLIC COMMENT PERIOD

ON

**AIR TOXICS HOT SPOTS PROGRAM —
PROPOSED REVISED REFERENCE
EXPOSURE LEVELS FOR TOLUENE
DIISOCYANATE AND METHYLENE
DIPHENYL DIISOCYANATE.**

April 23, 2010

The Office of Environmental Health Hazard Assessment (OEHHA) is releasing draft documents describing proposed revised Reference Exposure Levels (RELs) for toluene diisocyanate and methylene diphenyl diisocyanate to solicit public comment. OEHHA is required to develop guidelines for conducting health risk assessments under the Air Toxics Hot Spots Program (Health and Safety Code Section 44360(b)(2)). OEHHA has developed Technical Support Documents (TSDs) in response to this statutory requirement, including one which described acute and chronic RELs, which was adopted in December 2008. This TSD (which replaces earlier guidance documents on this topic) presents methodology revised to reflect the latest scientific knowledge and techniques, and in particular to explicitly include consideration of possible differential effects on the health of infants, children and other sensitive subpopulations, in accordance with the mandate of the Children's Environmental Health Protection Act (Senate Bill 25, Escutia, chapter 731, statutes of 1999, Health and Safety Code Sections 39669.5 *et seq.*). In addition to acute and chronic RELs, the new method allows for the estimation of 8-hour RELs, which may be useful in dealing with some special circumstances in Hot Spots risk assessments. These guidelines have already been used to develop updated RELs for several chemicals, and OEHHA is now presenting draft updates to the RELs for two further chemicals: tol-

uene diisocyanate and methylene diphenyl diisocyanate.

We are seeking comments on these documents, in particular on the revised RELs and the application of the revised methodology to protect infants and children and other sensitive subpopulations. Following this public comment period, the documents and any comments received, along with OEHHA's response to these comments, will undergo review by the State's Scientific Review Panel on Toxic Air Contaminants.

The draft documents become available on the OEHHA Home Page at <http://www.oehha.ca.gov> on **April 23, 2010**. **The availability of the document on this site will commence a 60-day public review period that will end on June 22, 2008.**

Public workshops will be held during this period: time and location will be announced shortly. Please direct your comments on the documents, in writing or by e-mail, and any inquiries concerning technical matters or availability of the documents to:

Dr. Andrew G. Salmon
Chief Air Toxicology and Risk Assessment Unit
Office of Environmental Health Hazard Assessment
1515 Clay St., 16th Floor
Oakland, CA 94612.
mailto: asalmon@oehha.ca.gov.
Telephone: (510) 622-3191

Information about dates and agenda for meetings of the Scientific Review Panel can be obtained from the ARB web page at <http://www.arb.ca.gov/srp/srp.htm>.

**ACCEPTANCE OF PETITION
TO REVIEW ALLEGED
UNDERGROUND REGULATIONS**

**CALIFORNIA DEPARTMENT OF
SOCIAL SERVICES**

**PETITION TO THE OFFICE OF
ADMINISTRATIVE LAW**

RE: Alleged Underground Regulation

1. Identifying information:
Leap and Bound Academy — Simi Valley
Charles Thacker, Owner
5165 Cochran St, Simi Valley CA 93063
(310) 344 1681
cethacker@hotmail.com
2. Agency being challenged:
California Department of Social Services
Community Care Licensing Division (CCLD)

3. Purported Underground Regulation(s):

Background: On or about April 8, 2008, CCLD visited my Simi Valley preschool. During the visit, Ms Kramer, the CCLD agent, concluded that ALL of my employees held proper BACKGROUND clearances but three of them had not been specifically associated with my Simi Valley preschool (see Attachment F for clearance numbers). The three employees were CLEARED — that was never in question — but they were associated with other licensed schools of which I also own.

A follow-up visit was conducted by Ms Kramer on July 1, 2008 where she cited and fined me for failing to have the three employees associated with my Simi Valley school. When she cited me, she took a duly authorized regulation (see attachment A1 under “deficiencies” and embellished it to create underground regulation (see A1 under “Plan of Corrections”). I appealed the citation and fine through all the channels of CCLD and tried to get an Administrative Hearing via OAL but the OAL said that CCLD would have to request the hearing on my behalf and CCLD refused to make the request (see Attachment C).

During the appeal process, I appealed the citation and fine to progressively higher levels of management (all the way to Ms Gloria Merk). At each level, the Department maintained their position on the underground regulation thus showing that the use of underground regulations is a systemic problem within the department rather than isolated event; overt rather than accidental; historical in addition to current.

The underground regulations are listed below:

- a. Title 22, 101170(e) and (f) AS EMBELLISHED by CCLD citation, Jul 1, 2008 (see attachment A1)
- b. Title 22, 101170(e) and (f) AS EMBELLISHED by CCLD Citation Review Ltrs Jul 16, 2008 (see attachment A2)
- c. Title 22, 101107(e)(1) AS EMBELLISHED by CCLD Ltr, Aug 5, 2008 (see attachment A3)
- d. Title 22, 1091107(e)(1) AS EMBELLISHED by CCLD Ltr, Oct 21, 2008 (see attachment A4)
- e. Title 22, 101107(e)(1) AS EMBELLISHED by CCLD Ltr, Nov 20, 2008 (see attachment A5)
- f. CCLD Evaluators Manual, Regulations Interpretations and Procedures, Child Care Centers, Section 7–1100, Criminal Record Clearance (see attachment B)

As for 3a (above) the Title 22, 101170(e) states that:

All individuals subject to a criminal record review pursuant to Health and Safety Code Section 1596.871 shall prior to working, residing, or volunteering in a licensed facility:

(1) Obtain a California clearance . . . as required by the Department or

(2) Request a transfer of a criminal record clearance as specified in Section 101170(f)

HOWEVER, the citation EMBELLISHES 101170(e)(1) (and thus makes 101170(e)(1) an underground regulation) by stating:

Licensee shall ensure every employee on site already has their name and background clearance associated with the center . . . Any employee who doesn't must be discharged immediately . . . This must be adhered to in the future.

As you can see, the 101170(e) only requires that an individual be cleared but the EMBELLISHED 101170(e) requires them to be cleared AND associated.

As for 3b (above), Ms Maria Valencia, Licensing Program Manager 1 (1st level appeal and Ms Kramer's supervisor), responded to my appeal of this citation in which she stated:

Your interpretation of the law under regulation section 101170(e) and (f) requires that the individual aforementioned have “EITHER a clearance OR a clearance transfer—NOT BOTH as evidenced in the regulation and reproduced in your findings . . .” is incorrect. Pursuant to the Evaluator Manual (EM) Section 7–1100, Criminal Record Clearance and Section 7–1170

. . . .

Ms Valencia demands that the “Plain Meaning” of 101170(e) and (f) is incorrect and that the underground regulations contained in the CCLD Evaluator's Manual contains the regulate clearances.

As for 3c (above), I appealed Ms Valencia's ruling to her supervisor, Ms Colleen Young, Central Coast Regional Office. Ms Young (at the 2nd appeal level), continues to EMBELLISH the 101170(e)(1) by stating that the regulation REQUIRES an “association” in addition to the “clearance”. She states:

Section 101107(e)(1) pertains to a situation when a licensee hires an individual and the facility license number is identified on the Live Scan form and therefore the prints become (automatically) associated with that facility license upon clearance.

Ms Young would have us believe that 101170(e)(1) really means:

Cleared JUST BEFORE working in the center using a LIVE SCAN FORM which AUTOMATICALLY “associates” the new hire with the FACILITY

Ms Young's EMBELLISHED 101107(e)(1) forms an entirely new underground regulation. The fact is, the 101170(e)(1) is not concerned about when a clearance

was obtained so long as the individual has a clearance — the clearance could have been issued years earlier and at that would still meet 101107(e)(1). Likewise, 101107(e) does not concern itself with “association with a center”. “Association” is a underground regulation created by CCLD in its bulletins, citations, manuals, and letters.

As for 3d (above), I appealed Ms Young’s ruling to her supervisor, Mr. Cagle Moore, Assistant Child Care Program Manger — South. Mr. Moore (at the 3rd appeal level) took the citation and Ms Young’s ruling and did away with the rule of law all together by creating a NEW UNDERGROUND regulation by PROCLAMATION. He stated:

Simply stated, the licensee must submit a criminal record transfer request and identification to the licensing agency prior to allowing the individual to work or be present in the facility. This has been a requirement of years and remains a requirement which we must enforce. Therefore your appeal is denied.

He adds this:

. . . the fact remains that the California Department of Social Services (CDSS) as deemed . . . that the citation are correct and you must pay the outstanding balance to CDSS.

As for 3e (above), I appealed Mr. Moore’s ruling to his supervisor, Ms Gloria Merk, Statewide Child Care Program Administrator. Ms Merk (at the 4th appeal level) REINFORCES Mr. Moore’s proclamation, Like Mr. Moore and other below him, Ms Merk, discards the law and enforces her own regulations when she states:

Mr. Moore was correct in stating that the statue and regulation require a licensee to submit a criminal record transfer request . . . for employees who have a clearance associated with another facility, prior to bringing them to work. You contend that the citation was incorrectly issued and that a transfer request is not necessary since the staff you hired had a criminal record clearance through other facilities. That is incorrect.

As for 3f (above), the Evaluator’s Manual is where CCLD turns to justify its underground regulations. Ms Valencia invokes EM section 7–1100 which states in part:

All clearance transfer requests must be submitted to the Department before the subject, who is subject to the transfer, has client contact or the licensee will be in violation of the law and subject to a \$100 civil penalty.

This UNDERGROUND regulation requires me to submit a transfer or I will be cited and fined.

Furthermore,

If a licensee of multiple facilities does not have an approved waiver . . . cite the licensee and assess civil penalties. Give the facility administrator a transfer request form (LIC 9182) and have him/her complete the form during the visit.

Here the EM added additional underground regulations (for those of us that have multiple schools) which require me to obtain some special waiver or be cited and assessed civil penalties (which is what CCLD did to me in this particular case).

4. CCLD actions that demonstrated that it enforced the purported underground regulation.

Santa Barbara branch of CCLD cited me for violating two sections of Title 22. Specifically, 101170(e)(1) and (2) for “unassociated” individuals in my school. CCLD EMBELLISHED existing regulations (those regulations that control background clearances) and invoked new underground regulations when they issued the citation. And used “time and tradition proclamations” as a final justification for why their underground regulations are true and correct. Additionally, they assessed me with CIVIL Penalties of \$1000 for violating their underground regulation (see attachment A1 and D).

5. Legal Basis for declaring that CCLD letters and manuals are being used as regulations:

Argument 1: Compliance is Mandatory: Compliance with the rulemaking requirements of the Administrative Procedure Act is mandatory. (*Armistead v. State Personnel Board*) so if it is a regulation, it must comply with the APA.

Argument 2: No Express Exemption: Title 22 is not expressly exempted by statue so it is subject to the APA (*Engelmann v. State Board of Education*).

Argument 3: Looks, Reads, Acts . . . : If a rule looks like a regulation, reads like a regulation, and acts like a regulation, it will be treated by the courts as a regulation whether or not the issuing agency so labeled it (*SWRCB v. OAL*).

Argument 4: No Embellishment: Agency rules properly promulgated as regulations cannot be embellished upon in administrative manuals (i.e., Evaluator’s manual) or citations or administrative letters or bulletins. *Union of American Physicians and Dentists v. Kizer* (1990).

Argument 5: Standard of general application applies to all members. . . *Faulkner v. California Toll Bridge Authority* (1953). CCLD is applying the regulation to all child care centers so it is a regulation.

Argument 6: Prohibition: The APA specifically prohibits any state agency from making any use of a state agency rule which is a “regulation” as defined in Government Code section 11342.600 that should have, but has not been adopted pursuant to the APA. CCLD has

violated APA by enforcing an “underground regulation.”

6. Impact of considerable public importance:

Argument 1: CCLD failed the Public Trust which harmed the consumer: We all rely on CCLD to properly monitor and enforce safety and welfare at our pre-schools. Parents expect that CCLD is knowledgeable of state laws and faithfully manages regulations that flow from those laws. CCLD failed the public trust by failing to maintain Title 22 with properly promulgated regulations. By CCLD’s own account, the underground regulation “. . . has been a requirement of years and remains a requirement which we must enforce. Health and Safety Code section 1596.816 states:

1596.816(b) All child care regulatory functions of the licensing division, including the adoption and interpretation of regulations . . . shall be carried out by the child care licensing branch. . .

CCLD is derelict in its duties under the law for failing to promulgate the underground regulations, CCLD’s actions and inactions failed the public trust and harmed the consumer by denying the consumer the benefit of a proper regulation.

Argument 2: CCLD failed the Public Trust by harming the licensed childcare provider: Providers rely on Title 22 and the Health and Safety Code to determine compliance with state laws and regulations. CCLD harmed all licensed childcare providers when CCLD failed to properly promulgate its underground regulations. When CCLD follows the rulemaking process, licensed childcare providers are provided notice and an opportunity to comply with the new regulation and avoid citations. CCLD’s use of hidden requirements and proclamations places licensed childcare providers in the dark as to the regulation. Licensed Providers which did not receive notice of the regulation requirements are left in “harms way”. Falsely accusing licensed child care providers of regulation violations harms California by subverting the will of the Legislator. Specifically:

1596.72. The Legislature finds all of the following:

(a) That child day care facilities can contribute positively to a child’s emotional, cognitive, and educational development.

(b) That it is the intent of this state to provide a comprehensive, quality system for licensing child day care facilities to ensure a quality day care environment.

(c) That this system of licensure requires a special understanding of the unique characteristics and needs of the children served by child day care facilities.

(d) That it is the intent of the Legislature to establish within the State Department of Social Services an organizational structure to separate licensing of child day care facilities from those facility types administered under Chapter 3 (commencing with Section 1500)

(e) That good quality child day care services are an essential service for working parents.

Licensed providers will quit the business if they cannot trust in CCLD to properly enforce the law. Creating fewer licensed providers rather than more licensed providers is contrary to the will of the Legislature.

Argument 3: CCLD failed the Public Trust by treating the APA with contempt. By ignoring the regulatory process for literally YEARS, CCLD fosters an image and attitude that CCLD does not abide by the rule of law. The public is harmed whenever public officials such as CCLD ignore the rule of law and instead develop their own underground regulations outside of the law. The APA was developed to insure that the public feels secure and confident in its government. When CCLD ignores the APA, the residents of California lose confidence in the government and the rule of law.

7. Attachment: Full citation from CCLD (A1)
1st appeal ruling (A2), Ms Valencia
2nd appeal ruling (A3), Ms Young
3rd appeal ruling (A4), Mr. Moore
4th appeal ruling (A5), Ms Merk
Evaluator’s Manual section 7–1100
excerpt (B)

<http://www.cclld.ca.gov/res/pdf/BackgroundCheckProcedures.pdf>

Request for Administrative Hearing (C)
Demand for payment of civil penalties
(D)
Full citation (E)

8. Certifications:

I certify that I have submitted a copy of this petition and all attachments to the state agency which has issued, used, enforced or attempted to enforce the purported underground regulation by certified mail, 7007 0710 0004 0331 8704.

Maria Valencia Licensing Program Manager I
Colleen Young Regional Manager

California Department of Social Services
Community Care Licensing Division
Central Coast Regional Office
360 Hope Av, Suite C–105, MS 29–09
Santa Barbara, CA 93105

I certify that all of the above information is true and correct to the best of my knowledge.

/s/_____, dated 2/11/2010

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2010-0302-01
BOARD OF EQUALIZATION
Mandatory Audits

This rulemaking amends three sections within Title 18 to amend the mandatory audit requirements currently found in regulation to reflect the changes implemented by AB 550, CH 297 Statutes of 2008. AB 550 changed the requirement from mandatory audits to requiring assessors to conduct a "significant number of audits" as defined in statute. There are also several other non-substantive changes made to the regulations

Title 18
California Code of Regulations
AMEND: 192, 193, 371
Filed 04/14/2010
Effective 05/14/2010
Agency Contact:
Richard Bennion (916) 445-2130

File# 2010-0226-02
BUREAU OF AUTOMOTIVE REPAIR
Exhaust System Certificate of Compliance Fee

The Bureau of Automotive Repair (Bureau) adopts section 3340.36.1 to Title 16 of the California Code of Regulations to specify and set the fee for the neutral testing centers (referee stations) for vehicle owners disputing the results of tests for vehicular exhaust system noise citations. Vehicle Code section 27150.2 requires the referee stations to provide testing and certification for vehicles that receive a citation from law enforcement for violation of Vehicle Code section 27150 or 27151. Vehicle Code section 27150.2 requires the referee station to charge a fee to recover the costs incurred by the Bureau in providing exhaust system noise citation testing and certification. Currently, the referee station provides the inspection and certification at no cost to the vehicle owner. This regulatory action sets the fee at \$108.

Title 16
California Code of Regulations
ADOPT: 3340.36.1
Filed 04/12/2010
Effective 05/12/2010
Agency Contact: Tracy Brazil (916) 255-2279

File# 2010-0301-01
CALIFORNIA GAMBLING CONTROL COMMISSION
Portable Personal Key Employee Licenses

This rulemaking action implements Senate Bill 730 (Chap. 438 of 2007) by establishing, as a separate Article within Division 18 of Title 4 of the California Code of Regulations, a program for the portability of Key Employee gambling enterprise licenses. The rulemaking specifies the criteria and fees for portable Key Employee licenses and also adopts four new forms and amends one other form for use in the program.

Title 4
California Code of Regulations
ADOPT: 12350, 12351, 12352, 12353, 12354, 12355 AMEND: 12008, 12335, 12340, 12342, 12343 renumbered as and merged with amended 12342, 12344 renumbered as and merged with amended 12345, and 12348 renumbered as 12346 REPEAL: 12347
Filed 04/13/2010
Effective 05/13/2010
Agency Contact: James Allen (916) 263-4024

File# 2010-0301-04
CALIFORNIA HIGHWAY PATROL
Drivers' Hours of Service — Motion Picture Productions

This regulatory action adopts an exemption from the existing driver hours of service (HOS) regulations that allows drivers of property-carrying commercial vehicles, operated to or from a theatrical or television motion picture production site, to operate under HOS rules in effect prior to November 11, 2007.

Title 13
California Code of Regulations
AMEND: 1201, 1212, 1213
Filed 04/13/2010
Effective 05/13/2010
Agency Contact: Gary Ritz (916) 445-1865

File# 2010-0329-04
CALIFORNIA STATE UNIVERSITY
Assignment of Priority

This is the amendment of CSU's regulation regarding priorities for housing. This matter is exempt from OAL review pursuant to Education Code section 89030.1.

Title 5
California Code of Regulations
AMEND: 42002
Filed 04/12/2010
Effective 04/12/2010
Agency Contact:
Cassandra M. Andrews (562) 951-4500

File# 2010-0329-05
CALIFORNIA STATE UNIVERSITY
Bachelor of Vocational Education Degree

This is a repeal from title 5 of the Bachelor of Vocational Education Degree provisions by California State University. This matter is exempt from OAL review pursuant to Education Code section 89030.1.

Title 5
California Code of Regulations
REPEAL: 40503
Filed 04/12/2010
Effective 04/12/2010
Agency Contact:
Cassandra M. Andrews (562) 951-4500

File# 2010-0301-05
DEPARTMENT OF CORPORATIONS
California Foreclosure Prevention Act

The Department of Corporations (Department) adopted a certificate of compliance for an emergency regulatory action which established the minimum requirements for a comprehensive loan modification program under Civil Code section 2923.53 in order for a mortgage loan servicer to obtain an order of exemption from Civil Code Section 2923.52 in the California Foreclosure Prevention Act.

Title 10
California Code of Regulations
ADOPT: 2031.1, 2031.2, 2031.3, 2031.4, 2031.5, 2031.6, 2031.7, 2031.8, 2031.9, 2031.10
Filed 04/13/2010
Effective 04/13/2010
Agency Contact: Karen Fong (916) 322-3553

File# 2010-0225-06
DEPARTMENT OF HEALTH CARE SERVICES
Health Insurance Premium Payment (HIPP) Program

This regulatory action revises the state Health Insurance Premium Payment (HIPP) program, pursuant to federal approval, to change the cost-savings percentage by requiring that the estimated savings to the Medi-Cal Program must be 110% of the premium costs instead of the current 200%.

Title 22
California Code of Regulations
AMEND: 50778
Filed 04/08/2010
Effective 05/08/2010
Agency Contact: Ben Carranco (916) 440-7766

File# 2010-0325-02
DEPARTMENT OF INSURANCE
Conflict-of-Interest Code

The Department of Insurance is amending its conflict of interest code found at title 10, section 2690, California Code of Regulations. The amendment was approved for filing by the Fair Political Practices Commission on March 3, 2010.

Title 10
California Code of Regulations
AMEND: 2690
Filed 04/12/2010
Effective 05/12/2010
Agency Contact:
Patrick Applewhite (916) 492-3333

File# 2010-0224-02
DEPARTMENT OF PUBLIC HEALTH
Clinical Laboratory Personnel Licensure — Rule 100

This action updates two sections regarding the examination and licensure of clinical genetic molecular biologist scientists and clinical cytogeneticist scientists. This change is necessary since a new organization, American Society for Clinical Pathology (ASCP) now conducts the very same exam previously administered by the National Credentialing Agency for Laboratory Personnel (NCA), which has since joined ASCP.

Title 17
California Code of Regulations
AMEND: 1031.2, 1031.3
Filed 04/07/2010
Effective
Agency Contact:
Rosalie Dvorak-Remis (916) 327-4310

File# 2010-0225-03
DEPARTMENT OF RESOURCES RECYCLING
AND RECOVERY
Long-term Landfill Care

The Department of Resources, Recycling and Recovery is amending various sections in Title 27, California Code of Regulations and is also adopting several new sections. This rulemaking action involves change of ownership, permit application, permit review, permit processing requirements, closure cost estimates, post-closure maintenance plans and cost estimates, certification of closure requirements, known or reasonably fore-

seeable corrective action plans, cost estimates and financial assurance requirements, cancellation or nonrenewal of financial assurance mechanisms, postclosure maintenance financial assurance requirements and financial assurance forms and mechanisms for active and closed landfills.

Title 27

California Code of Regulations

ADOPT: 22100, 22101, 22103, Division 2 Form CalRecycle 114 AMEND: 20164, 21200, 21570, 21640, 21685, 21820, 21840, 21865, 21880, 22102, 22211, 22220, 22221, 22231, 22234, 22245, 22248, Division 2 Appendix 3, Division 2 form Calrecycle 100, Division 2 form Calrecycle 106

Filed 04/09/2010

Effective 07/01/2010

Agency Contact:

Shelly Bromberg (916) 341-6076

File# 2010-0302-02

STATE ALLOCATION BOARD

Leroy F. Greene School Facs. Act of 1998; General Site Dev.

The State Allocation Board proposed this rulemaking action to extend the expiration date to 1/1/2011 for general school site development grants in title 2, California Code of Regulations, section 1859.76(d)(3).

Title 2

California Code of Regulations

AMEND: 1859.76

Filed 04/08/2010

Effective 04/08/2010

Agency Contact: Robert Young (916) 375-5939

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN November 11, 2009 TO
April 14, 2010**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

04/08/10 AMEND: 1859.76

03/23/10 AMEND: 18351

03/19/10 ADOPT: 59670

03/19/10 AMEND: 18942 REPEAL: 18630

03/11/10 AMEND: 18932.4

02/24/10 AMEND: 1859.2, 1859.41, Form SAB 50-01, Form SAB 50-02

02/23/10 AMEND: div. 8, ch. 16, sec. 37000

02/19/10 AMEND: 52400

02/11/10 ADOPT: 18421.9 AMEND: 18431

02/11/10 AMEND: 18950.3

02/09/10 ADOPT: 59660

01/26/10 ADOPT: 1899.570, 1899.575, 1899.580, 1899.585

01/25/10 AMEND: 58100

01/19/10 AMEND: div. 8, ch. 102, sec. 59100

01/14/10 AMEND: Section 27000

01/13/10 ADOPT: div. 8, ch. 119, sec. 59640

01/11/10 ADOPT: 18229.1, 18944 REPEAL: 18944

01/05/10 AMEND: div. 8, ch. 49, sec. 53800

12/22/09 AMEND: 1859.96, 1859.148.2, 1859.166.2

12/21/09 AMEND: 1896.4, 1896.12

12/21/09 ADOPT: 20714.5 AMEND: 20711, 20712, 20714, 20716, 20717, 20718, 20719

11/24/09 AMEND: 1859.2

11/24/09 AMEND: 1859.2, 1859.35, 1859.51, Form SAB 50-02, SAB Form 50-03, SAB Form 50-04

11/17/09 ADOPT: 20810, 20811, 20812, 20813, 20814, 20815, 20816, 20817, 20818, 20819, 20820, 20821, 20822, 20823, 20830, 20831, 20832, 20833, 20840, 20841, 20842

11/16/09 AMEND: 1859.129, 1859.197

11/12/09 ADOPT: 18944.4 AMEND: 18944.3

11/12/09 ADOPT: 18219, 18734

Title 3

04/05/10 AMEND: 3434(b)

03/24/10 ADOPT: 3436

03/24/10 AMEND: 3588

03/17/10 AMEND: 3423(b)

03/15/10 AMEND: 3434(b)

03/10/10 AMEND: 3591.20(a)

03/10/10 AMEND: 3434(b)

03/04/10 AMEND: 3700(c)

03/04/10 AMEND: 3406(b)

03/03/10 REPEAL: 3279, 3433

03/03/10 AMEND: 3591.20

03/03/10 AMEND: 3406(b)

03/03/10 AMEND: 3423(b)

03/03/10 ADOPT: 3437

02/26/10 AMEND: 3435

02/18/10 AMEND: 3591.23

02/18/10 ADOPT: 3591.24

01/25/10 AMEND: 3434(b)

01/25/10	AMEND: 3406(b)	71716, 71750, 71760, 74110, 74115,
01/25/10	ADOPT: 1430.54, 1430.55, 1430.56, 1430.57	76020, 76140, 76212, 76240 AMEND:
01/19/10	ADOPT: 3436	70000, 70010, 70020, 71100, 71110,
01/12/10	AMEND: 3434(b)	71120, 71130, 71140, 71150, 71160,
01/11/10	AMEND: 3406(b) and (c)	71170, 71180, 71190, 71200, 71210,
01/06/10	AMEND: 3435(b)	71220, 71230, 71240, 71250, 71260,
01/04/10	AMEND: 2675, 2734, 2735	71270, 71280, 71290, 71300, 71310,
12/31/09	AMEND: 3434(b), (c), (e)	71340, 71380, 71400, 71405, 71450,
12/29/09	AMEND: 3423(b)	71455, 71460, 71465, 71470, 71500,
12/28/09	AMEND: 3434(b)	71550, 71600, 71630, 71700, 71705,
12/28/09	AMEND: 3434(b)	71710, 71715, 71720, 71730, 71735,
12/16/09	AMEND: 3591.20(a)	71740, 71745, 71770, 71810, 71850,
12/16/09	AMEND: 3406(b)(c)	71865, 71920, 71930, 74000, 74002,
11/25/09	AMEND: 3435(b)	74004, 74006, 74120, 74130, 74140,
11/24/09	AMEND: 3430(b)	74150, 74160, 74170, 74190, 74200,
11/16/09	AMEND: 3435(b)	76000, 76120, 76130, 76200, 76210,
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04/06/10	ADOPT: 12372, 12395, 12396 AMEND: 12370	71510, 71515, 71520, 71555, 71560,
03/29/10	AMEND: 1685	71565, 71605, 71610, 71615, 71650,
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03/15/10	ADOPT: 12482	71880, 71885, 71890, 71900, 71905,
02/01/10	AMEND: 1867	71910, 72000, 72005, 72010, 72020,
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12/09/09	AMEND: 12388	72415, 72420, 72450, 72455, 72460,
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03/10/10	AMEND: 6070, 6074, 6075, 6080, 6085, 6087, 6089, 6090, 6100, 6115, 6120, Article 154, Appendix A, Appendix B	12/08/09	AMEND: 2699.6603
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5090, 5094, 5301, 5302, 5304, 5306,
5308, 5310, 5312, 5314, 5316, 5318,
5320, 5322, 5324, 5326, 5328, 5332,
5336, 5338, 5340, 5342, 5344, 5346,
5348, 5350, 5352, 5354, 5356, 5360,
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04/09/10 ADOPT: 22100, 22101, 22103, Division
2 Form CalRecycle 114 AMEND: 20164,
21200, 21570, 21640, 21685, 21820,
21840, 21865, 21880, 22102, 22211,
22220, 22221, 22231, 22234, 22245,
22248, Division 2 Appendix 3, Division 2
form Calrecycle 100, Division 2 form
Calrecycle 106

03/10/10 AMEND: 25903
12/17/09 ADOPT: 10010 REPEAL: 10010
12/02/09 AMEND: 27001

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12/18/09 ADOPT: 1300.67.2.2

Title MPP

02/26/10 ADOPT: 31–021 AMEND: 31–003,
31–410, 31–501
01/29/10 ADOPT: 91–101, 91–110, 91–120,
91–130, 91–140
12/22/09 AMEND: 11–425, 22–001, 22–003,
22–009, 45–302, 45–303, 45–304,
45–305, 45–306
12/15/09 AMEND: 70–104